

CHAPTER 223

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 10-1359

BY REPRESENTATIVE(S) McCann, Acree, Apuan, Gerou, Hullinghorst, Massey, McFadyen, Riesberg, Roberts, Todd;
also SENATOR(S) Steadman, Boyd, Newell, Williams.

AN ACT

CONCERNING CHANGE OF VENUE IN DEPENDENCY AND NEGLECT PROCEEDINGS, AND, IN CONNECTION THEREWITH, CLARIFYING THE ROLE OF THE COUNTY DEPARTMENTS OF SOCIAL OR HUMAN SERVICES WHEN JURISDICTION OVER A CASE IS TRANSFERRED BETWEEN COUNTIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 19-3-201, Colorado Revised Statutes, is amended to read:

19-3-201. Venue. (1) All proceedings brought under this article shall be commenced in the county in which the child resides or is present.

(2) When proceedings are commenced under this article in a county other than that of the child's residence, the court in which proceedings were initiated may, on its own motion or on the motion of any interested party, transfer the case to the court in the county where the child resides ~~if~~ UNDER THE FOLLOWING CIRCUMSTANCES:

(a) THE TRANSFER WOULD NOT BE DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD; AND

(b) Adjudication has taken place ~~and it finds that the transfer would not be detrimental to the best interests of the child, except that,~~ OR THE CASE HAS BEEN CONTINUED PURSUANT TO SECTION 19-3-505 (5).

(3) In a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), it shall be presumed that any transfer of proceedings PURSUANT TO SUBSECTION (2) OF THIS SECTION without good cause shown that results in a delay in the judicial proceedings would be detrimental to the child's best interests. Such presumption may be rebutted by a preponderance of the evidence.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(4) (a) AN ORDER GRANTING A CHANGE OF VENUE AND TRANSFERRING JURISDICTION TO THE COURT IN THE COUNTY IN WHICH THE CHILD RESIDES SHALL BE EFFECTIVE FIFTEEN DAYS AFTER THE TRANSFERRING COURT SIGNS THE ORDER. WITHIN THIRTY DAYS AFTER SIGNING THE ORDER, THE TRANSFERRING COURT SHALL FORWARD THE COURT FILE, INCLUDING ORIGINALS OR CERTIFIED COPIES OF ALL DOCUMENTS AND REPORTS, TO THE RECEIVING COURT.

(b) THE ORDER GRANTING A CHANGE OF VENUE AND TRANSFERRING JURISDICTION SHALL INCLUDE:

(I) NOTICE TO THE RECEIVING COURT OF WHETHER A RESPONDENT PARENT'S COUNSEL AND THE GUARDIAN AD LITEM APPOINTED FOR THE CHILD WILL REMAIN ON THE CASE. IF A RESPONDENT PARENT'S COUNSEL OR THE GUARDIAN AD LITEM FOR THE CHILD WILL NOT REMAIN ON THE CASE, THE ORDER SHALL INFORM THE RECEIVING COURT THAT THE RECEIVING COURT SHALL MAKE A NEW APPOINTMENT OF COUNSEL OR GUARDIAN AD LITEM.

(II) NOTICE THAT THE TRANSFERRING COURT SHALL VACATE ANY EXISTING HEARING DATE AFTER THE EFFECTIVE DATE OF THE ORDER.

~~(5)~~ (5) When venue is transferred, as set forth in subsection (2) of this section, ~~the court transferring jurisdiction shall transmit all documents and reports, or certified copies thereof, to the receiving court, which~~ court shall proceed with the case as if the petition had been originally filed or adjudication had been originally made in that court. THE RECEIVING COURT SHALL HOLD AN INITIAL HEARING IN THE CASE WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE ORDER GRANTING A CHANGE OF VENUE AND TRANSFERRING JURISDICTION TO THE RECEIVING COURT.

(6) A MOTION FOR CHANGE OF VENUE SHALL BE MADE IN WRITING AND SHALL INCLUDE A CERTIFICATION BY THE MOVING PARTY THAT THE MOVING PARTY HAS COMPLIED WITH ALL STATUTORY REQUIREMENTS. THE MOTION FOR CHANGE OF VENUE SHALL BE MAILED TO ALL PARTIES AND ATTORNEYS OF RECORD IN THE CASE AND TO THE COUNTY ATTORNEY IN THE RECEIVING COUNTY.

SECTION 2. Part 2 of article 3 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-3-201.5. Change of venue - county department and county attorney responsibilities - rules. (1) EACH COUNTY DEPARTMENT SHALL DESIGNATE A CHANGE OF VENUE COORDINATOR TO FACILITATE THE TRANSFER OF JURISDICTION OF A CASE BETWEEN COUNTY DEPARTMENTS.

(2) WITHIN FIFTEEN DAYS AFTER A COURT SIGNS AN ORDER PURSUANT TO SECTION 19-3-201 GRANTING A CHANGE OF VENUE AND TRANSFERRING JURISDICTION, THE TRANSFERRING COUNTY DEPARTMENT SHALL:

(a) PROVIDE WRITTEN CASE INFORMATION TO THE DESIGNATED CHANGE OF VENUE COORDINATOR IN THE RECEIVING COUNTY, WHICH INFORMATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, PERMANENCY GOALS, TARGET DATES RELATING TO THE CASE, EVALUATIONS, A CURRENT FAMILY SERVICES PLAN, COURT REPORTS,

DATES OF PLACEMENT MOVES, THE PROGRESS OF THE CHILD IN PLACEMENT, ALL TITLE IV-E ELIGIBILITY DETERMINATIONS PURSUANT TO THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, AND RECOMMENDATIONS FOR CONTINUING PROGRESS IN THE CASE;

(b) UPDATE ALL DOCUMENTATION IN THE CASE FILE, INCLUDING THE RECORD IN THE STATE AUTOMATED SYSTEM;

(c) PROVIDE INFORMATION CONCERNING, TO THE EXTENT KNOWN, THE PHYSICAL LOCATION OF THE CHILD'S PARENTS, GUARDIANS, LEGAL CUSTODIANS, AND RELATIVES; AND

(d) (I) SCHEDULE A FAMILY ENGAGEMENT MEETING INVOLVING ALL PARTIES, COUNTY DEPARTMENT CASEWORKERS AND SUPERVISORS, AND COMMUNITY PROVIDERS; OR

(II) CONDUCT A CASE STAFFING BETWEEN COUNTY CASEWORKERS AND SUPERVISORS IN THE TRANSFERRING AND RECEIVING COUNTY DEPARTMENTS; OR

(III) SUBMIT A WRITTEN CASE TRANSFER SUMMARY.

(3) WITHIN FIFTEEN DAYS AFTER A COURT SIGNS AN ORDER PURSUANT TO SECTION 19-3-201 GRANTING A CHANGE OF VENUE AND TRANSFERRING JURISDICTION, THE TRANSFERRING COUNTY ATTORNEY'S OFFICE SHALL FORWARD A COMPLETE COPY OF THE CASE FILE, EXCLUDING ANY CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS, TO THE COUNTY ATTORNEY'S OFFICE IN THE RECEIVING COUNTY.

(4) THE STATE DEPARTMENT SHALL PROMULGATE, IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., ANY RULES NECESSARY FOR THE EFFECTIVE TRANSFER OF CASE RESPONSIBILITIES BETWEEN COUNTY DEPARTMENTS RESULTING FROM A CHANGE OF VENUE PURSUANT TO SECTION 19-3-201.

SECTION 3. Act subject to petition - specified effective date - applicability.

(1) This act shall take effect September 1, 2010; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to motions for change of venue filed on or after the applicable effective date of this act.

Approved: May 14, 2010